

AMENDED IN ASSEMBLY APRIL 13, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2362

Introduced by Assembly Members Skinner and Blakeslee

February 19, 2010

An act to amend ~~Section 53545 of, and to add Chapter 4 (commencing with Section 50560) to Part 2 of Division 31 of, the Health and Safety Code, and to amend Section 70 of the Revenue and Taxation Code, relating to housing taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2362, as amended, Skinner. ~~Soft-Story Housing Seismic Retrofit Program. Taxation: property tax: soft-story construction.~~

~~(1) The Housing and Emergency Shelter Trust Fund Act of 2006, adopted and approved by the voters at the November 7, 2006, statewide general election, authorized the issuance of bonds in the amount of \$2,850,000,000 pursuant to the State General Obligation Bond Law. Existing law requires the transfer of \$200,000,000 to the Housing Urban-Suburban and Rural Parks Account for purposes relating to housing-related parks grants in urban, suburban, and rural areas.~~

~~This bill would reduce the amount of funds transferred to the Housing Urban-Suburban and Rural Parks Account to \$150,000,000. The bill would transfer the remaining \$50,000,000 to the Soft-Story Housing Seismic Retrofit Fund for purposes of the Soft-Story Housing Seismic Retrofit Program, which the bill would establish. Pursuant to the program, the Department of Housing and Community Development would be required to make available, upon appropriation, grants to~~

~~qualifying cities, counties, or cities and counties for the provision of loans to building owners for the seismic retrofit of soft-story residential buildings, as defined, identified as being potentially hazardous to life in the event of an earthquake.~~

~~(2)~~

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change of ownership has occurred.

The California Constitution authorizes the Legislature to exclude from classification as “newly constructed” the construction or installation in existing buildings of certain seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.

This bill would, for a specified period, exclude from the classification “newly constructed” the portion of reconstruction or improvement to a soft-story residential building ~~under the Soft-Story Housing Seismic Retrofit Program, as defined.~~

By changing the manner in which local assessors assess property for property taxation purposes, this bill would impose a state-mandated local program.

~~(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(4)~~

(3) Existing law provides that the Legislature reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding that provision, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

~~(5)~~

(4) This bill would provide that certain provisions become inoperative if Senate Constitutional Amendment 4 of the 2008–09 Regular Session is approved by the voters at the June 8, 2010, statewide general election.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Chapter 4 (commencing with Section 50560) is~~
2 ~~added to Part 2 of Division 31 of the Health and Safety Code, to~~
3 ~~read:~~

4
5 ~~CHAPTER 4. SOFT-STORY HOUSING SEISMIC RETROFIT PROGRAM~~

6
7 ~~50560. (a) There is hereby created the Soft-Story Housing~~
8 ~~Seismic Retrofit Program, to be administered by the Department~~
9 ~~of Housing and Community Development.~~

10 ~~(b) There is hereby created in the State Treasury the Soft-Story~~
11 ~~Housing Seismic Retrofit Fund. Notwithstanding Section 16305.7~~
12 ~~of the Government Code, any repayments, interest, or new~~
13 ~~appropriations shall be deposited in the fund.~~

14 ~~(c) Upon appropriation by the Legislature, the department shall~~
15 ~~make moneys in the Soft-Story Housing Seismic Retrofit Fund~~
16 ~~available in the form of grants to qualifying cities, counties, or~~
17 ~~cities and counties for the provision of loans to building owners~~
18 ~~for the seismic retrofit of soft-story residential buildings that have~~
19 ~~been identified by the city, county, or city and county as being~~
20 ~~potentially hazardous to life in the event of an earthquake.~~

21 ~~(d) For the purpose of this section, the following terms have the~~
22 ~~following meanings:~~

23 ~~(1) "Qualifying city, county, or city and county" is a city,~~
24 ~~county, or city and county that meets all of the following criteria:~~

25 ~~(A) Has adopted an ordinance pursuant to Section 19162 to~~
26 ~~establish building seismic retrofit standards applicable to the~~
27 ~~seismic retrofit of buildings identified as being potentially~~
28 ~~hazardous to life in the event of an earthquake.~~

29 ~~(B) Has identified buildings pursuant to Section 19161 within~~
30 ~~its jurisdiction that are potentially hazardous to life in the event of~~
31 ~~an earthquake.~~

1 ~~(C) Has an adopted housing element that the department has~~
2 ~~found pursuant to Section 65585 of the Government Code to be~~
3 ~~in substantial compliance with the requirements of Article 10.6~~
4 ~~(commencing with Section 65580) of Chapter 3 of Division 1 of~~
5 ~~Title 7 of the Government Code and has submitted to the~~
6 ~~department the annual progress report required by Section 65400~~
7 ~~of the Government Code within the preceding 12 months.~~

8 ~~(D) Any other requirements established by the department.~~

9 ~~(2) “Soft-story residential building” means a wood frame,~~
10 ~~multiunit residential building constructed before January 1, 1978,~~
11 ~~where the ground floor portion of the structure contains parking~~
12 ~~or other similar open floor space that causes soft, weak, or~~
13 ~~open-front wall lines.~~

14 ~~(e) Loans made to the owners of soft-story residential buildings~~
15 ~~pursuant to this section shall be for a term to be determined by the~~
16 ~~department, but not more than 10 years. The loans shall bear simple~~
17 ~~interest at the rate of 3 percent per annum on the unpaid principal~~
18 ~~balance.~~

19 ~~(f) (1) Except as provided in paragraph (2), any loan repayments~~
20 ~~shall be retained by the qualifying city, county, or city and county~~
21 ~~and reused for the purposes of this section.~~

22 ~~(2) In the event that all of the soft-story residential buildings~~
23 ~~identified by the city, county, or city and county pursuant to Section~~
24 ~~19161 have been retrofit, or in the event that the city, county, or~~
25 ~~city and county has not made a loan pursuant to this section within~~
26 ~~the previous three years, the city, county, or city and county shall~~
27 ~~repay any unused portion of the grant and any future loan~~
28 ~~repayments to the department. The department shall deposit any~~
29 ~~repayments into the Soft-Story Housing Seismic Retrofit Fund for~~
30 ~~the purposes of this section.~~

31 ~~SEC. 2. Section 53545 of the Health and Safety Code is~~
32 ~~amended to read:~~

33 ~~53545. The Housing and Emergency Shelter Trust Fund of~~
34 ~~2006 is hereby created in the State Treasury. The Legislature~~
35 ~~intends that the proceeds of bonds deposited in the fund shall be~~
36 ~~used to fund the housing-related programs described in this chapter~~
37 ~~over the course of the next decade. The proceeds of bonds issued~~
38 ~~and sold pursuant to this part for the purposes specified in this~~
39 ~~chapter shall be allocated in the following manner:~~

1 ~~(a) (1) One billion five hundred million dollars (\$1,500,000,000)~~
2 ~~to be deposited in the Affordable Housing Account, which is~~
3 ~~hereby created in the fund. Notwithstanding Section 13340 of the~~
4 ~~Government Code, the money in the account shall be continuously~~
5 ~~appropriated in accordance with the following schedule:~~

6 ~~(A) (i) Three hundred forty-five million dollars (\$345,000,000)~~
7 ~~shall be transferred to the Housing Rehabilitation Loan Fund to~~
8 ~~be expended for the Multifamily Housing Program authorized by~~
9 ~~Chapter 6.7 (commencing with Section 50675) of Part 2. The~~
10 ~~priorities specified in Section 50675.13 shall apply to the~~
11 ~~expenditure of funds pursuant to this clause.~~

12 ~~(ii) Fifty million dollars (\$50,000,000) shall be transferred to~~
13 ~~the Housing Rehabilitation Loan Fund to be expended under the~~
14 ~~Multifamily Housing Program authorized by Chapter 6.7~~
15 ~~(commencing with Section 50675) of Part 2 for housing meeting~~
16 ~~the definitions in paragraphs (2) and (3) of subdivision (e) of~~
17 ~~Section 11139.3 of the Government Code. The department may~~
18 ~~provide higher per-unit loan limits as necessary to achieve~~
19 ~~affordable housing costs to the target population. Any funds not~~
20 ~~encumbered for the purposes of this clause by July 31, 2011, shall~~
21 ~~revert for general use in the Multifamily Housing Program unless~~
22 ~~the department determines that funds should revert sooner due to~~
23 ~~diminished demand.~~

24 ~~(B) One hundred ninety-five million dollars (\$195,000,000)~~
25 ~~shall be transferred to the Housing Rehabilitation Loan Fund to~~
26 ~~be expended for the Multifamily Housing Program authorized by~~
27 ~~Chapter 6.7 (commencing with Section 50675) of Part 2, to be~~
28 ~~used for supportive housing for individuals and households moving~~
29 ~~from emergency shelters or transitional housing or those at risk of~~
30 ~~homelessness. The Department of Housing and Community~~
31 ~~Development shall provide for higher per-unit loan limits as~~
32 ~~reasonably necessary to achieve housing costs affordable to those~~
33 ~~individuals and households. For purposes of this subparagraph,~~
34 ~~“supportive housing” means housing with no limit on length of~~
35 ~~stay, that is occupied by the target population, as defined in~~
36 ~~subdivision (d) of Section 53260, and that is linked to onsite or~~
37 ~~offsite services that assist the tenant to retain the housing, improve~~
38 ~~his or her health status, maximize his or her ability to live, and,~~
39 ~~when possible, work in the community. The criteria for selecting~~
40 ~~projects shall give priority to:~~

~~(i) Supportive housing for people with disabilities who would otherwise be at high risk of homelessness where the applications represent collaboration with programs that meet the needs of the person's disabilities.~~

~~(ii) Projects that demonstrate funding commitments from local governments for operating subsidies or services funding, or both, for five years or longer.~~

~~(C) One hundred thirty-five million dollars (\$135,000,000) shall be transferred to the fund created by subdivision (b) of Section 50517.5 to be expended for the programs authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2.~~

~~(D) Three hundred million dollars (\$300,000,000) shall be transferred to the Self-Help Housing Fund created by Section 50697.1. These funds shall be available to the Department of Housing and Community Development, to be expended for the purposes of enabling households to become or remain homeowners pursuant to the CalHome Program authorized by Chapter 6 (commencing with Section 50650) of Part 2, except ten million dollars (\$10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.~~

~~(E) Two hundred million dollars (\$200,000,000) shall be transferred to the Self-Help Housing Fund created by Section 50697.1. These funds shall be available to the California Housing Finance Agency, to be expended for the purposes of the California Homebuyer's Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3. Up to one hundred million dollars (\$100,000,000) of these funds may be expended pursuant to subdivision (b) of Section 51504.~~

~~(F) One hundred million dollars (\$100,000,000) shall be transferred to the Affordable Housing Innovation Fund, which is hereby created in the State Treasury, to be administered by the Department of Housing and Community Development. Funds shall be expended for competitive grants or loans to sponsoring entities that develop, own, lend, or invest in affordable housing and used to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing. Specific criteria establishing eligibility for and use of the funds shall be established in statute as approved by a $\frac{2}{3}$ vote of each house of the Legislature. Any funds not encumbered for the purposes set~~

1 forth in this subparagraph within 30 months of availability shall
2 revert to the Self-Help Housing Fund created by Section 50697.1
3 and shall be available for the purposes described in subparagraph
4 (D).

5 (G) One hundred twenty-five million dollars (\$125,000,000)
6 shall be transferred to the Building Equity and Growth in
7 Neighborhoods Fund to be used for the Building Equity and
8 Growth in Neighborhoods (BEGIN) Program pursuant to Chapter
9 14.5 (commencing with Section 50860) of Part 1. Any funds not
10 encumbered for the purposes set forth in this subparagraph by
11 November 17, 2011, shall revert for general use in the CalHome
12 Program unless the department determines that funds should revert
13 sooner due to diminished demand.

14 (H) Fifty million dollars (\$50,000,000) shall be transferred to
15 the Emergency Housing and Assistance Fund to be distributed in
16 the form of capital development grants under the Emergency
17 Housing and Assistance Program authorized by Chapter 11.5
18 (commencing with Section 50800) of Part 2 of Division 31. The
19 funds shall be administered by the Department of Housing and
20 Community Development in a manner consistent with the
21 restrictions and authorizations contained in Provision 3 of Item
22 2240-105-0001 of the Budget Act of 2000, except that any
23 appropriations in that item shall not apply. The competitive system
24 used by the department shall incorporate priorities set by the
25 designated local boards and their input as to the relative merits of
26 submitted applications from within the designated local board's
27 county in relation to those priorities. In addition, the funding
28 limitations contained in this section shall not apply to the
29 appropriation in that budget item.

30 (2) The Legislature may, from time to time, amend the
31 provisions of law related to programs to which funds are, or have
32 been, allocated pursuant to this subdivision for the purpose of
33 improving the efficiency and effectiveness of the program, or for
34 the purpose of furthering the goals of the program.

35 (3) The Bureau of State Audits shall conduct periodic audits to
36 ensure that bond proceeds are awarded in a timely fashion and in
37 a manner consistent with the requirements of this subdivision, and
38 that awardees of bond proceeds are using funds in compliance with
39 applicable provisions of this subdivision. The first audit shall be
40 conducted no later than one year from voter approval of this part.

1 ~~(4) In its annual report to the Legislature, the Department of~~
2 ~~Housing and Community Development shall report how funds that~~
3 ~~were made available pursuant to this subdivision and allocated in~~
4 ~~the prior year were expended. The department shall make the report~~
5 ~~available to the public on its Internet Web site.~~

6 ~~(b) Eight hundred fifty million dollars (\$850,000,000) shall be~~
7 ~~deposited in the Regional Planning, Housing, and Infill Incentive~~
8 ~~Account, which is hereby created in the fund. Funds in the account~~
9 ~~shall be available, upon appropriation by the Legislature, and~~
10 ~~subject to such other conditions and criteria as the Legislature may~~
11 ~~provide in statute, for the following purposes:~~

12 ~~(1) For infill incentive grants for capital outlay related to infill~~
13 ~~housing development and other related infill development,~~
14 ~~including, but not limited to, all of the following:~~

15 ~~(A) No more than two hundred million dollars (\$200,000,000)~~
16 ~~for park creation, development, or rehabilitation to encourage infill~~
17 ~~development.~~

18 ~~(B) Water, sewer, or other public infrastructure costs associated~~
19 ~~with infill development.~~

20 ~~(C) Transportation improvements related to infill development~~
21 ~~projects.~~

22 ~~(D) Traffic mitigation.~~

23 ~~(2) For brownfield cleanup that promotes infill housing~~
24 ~~development and other related infill development consistent with~~
25 ~~regional and local plans.~~

26 ~~(c) Three hundred million dollars (\$300,000,000) to be deposited~~
27 ~~in the Transit-Oriented Development Account, which is hereby~~
28 ~~created in the fund, for transfer to the Transit-Oriented~~
29 ~~Development Implementation Fund, for expenditure, upon~~
30 ~~appropriation by the Legislature, pursuant to the Transit-Oriented~~
31 ~~Development Implementation Program authorized by Part 13~~
32 ~~(commencing with Section 53560).~~

33 ~~(d) Two hundred million dollars (\$200,000,000) shall be~~
34 ~~deposited as follows:~~

35 ~~(1) One hundred fifty million dollars (\$150,000,000) in the~~
36 ~~Housing Urban-Suburban and Rural Parks Account, which is~~
37 ~~hereby created in the fund. Funds in the account shall be available~~
38 ~~upon appropriation by the Legislature for housing-related parks~~
39 ~~grants in urban, suburban, and rural areas, subject to the conditions~~
40 ~~and criteria that the Legislature may provide in statute.~~

1 ~~(2) Fifty million dollars (\$50,000,000) in the Soft-Story Housing~~
2 ~~Seismic Retrofit Fund created by Section 50560 for purposes of~~
3 ~~that section.~~

4 ~~SEC. 3.~~

5 ~~SECTION 1.~~ Section 70 of the Revenue and Taxation Code is
6 amended to read:

7 70. (a) “Newly constructed” and “new construction” means:

8 (1) Any addition to real property, whether land or improvements
9 (including fixtures), since the last lien date; and

10 (2) Any alteration of land or of any improvement (including
11 fixtures) since the last lien date that constitutes a major
12 rehabilitation thereof or that converts the property to a different
13 use.

14 (b) Any rehabilitation, renovation, or modernization that
15 converts an improvement or fixture to the substantial equivalent
16 of a new improvement or fixture is a major rehabilitation of that
17 improvement or fixture.

18 (c) Notwithstanding the provisions of subdivisions (a) and (b),
19 where real property has been damaged or destroyed by misfortune
20 or calamity, “newly constructed” and “new construction” do not
21 mean any timely reconstruction of the real property, or portion
22 thereof, where the property after reconstruction is substantially
23 equivalent to the property prior to damage or destruction. Any
24 reconstruction of real property, or portion thereof, that is not
25 substantially equivalent to the damaged or destroyed property,
26 shall be deemed to be new construction and only that portion that
27 exceeds substantially equivalent reconstruction shall have a new
28 base year value determined pursuant to Section 110.1.

29 (d) (1) Notwithstanding the provisions of subdivisions (a) and
30 (b), where a structure must be improved to comply with local
31 ordinances on seismic safety, “newly constructed” and “new
32 construction” do not mean the portion of reconstruction or
33 improvement to a structure, constructed of unreinforced masonry
34 bearing wall construction, necessary to comply with the local
35 ordinance. This exclusion shall remain in effect during the first 15
36 years following that reconstruction or improvement (unless the
37 property is purchased or changes ownership during that period, in
38 which case the provisions of Chapter 2 (commencing with Section
39 60) of this division shall apply).

1 (2) In the sixteenth year following the reconstruction or
2 improvement referred to in paragraph (1), the assessor shall place
3 on the roll the current full cash value of the portion of
4 reconstruction or improvement to the structure that was excluded
5 pursuant to this subdivision.

6 (3) The governing body that enacted the local ordinance shall
7 issue a certificate of compliance upon the request of the owner
8 who, pursuant to a notice or permit issued by the governing body
9 that specified that the reconstruction or improvement is necessary
10 to comply with a seismic safety ordinance, so reconstructs or
11 improves his or her structure in accordance with the ordinance.
12 The certificate of compliance shall be filed by the property owner
13 with the county assessor not later than six months after the
14 completion of the project. The failure to file a certificate of
15 completion within the prescribed filing period shall be deemed a
16 waiver of the exclusion for that year.

17 (e) (1) Notwithstanding the provisions of subdivisions (a) and
18 (b), where a tank must be improved, upgraded, or replaced to
19 comply with federal, state, and local regulations on underground
20 storage tanks, “newly constructed” and “new construction” do not
21 mean the improvement, upgrade, or replacement of a tank to meet
22 compliance standards, and the improvement, upgrade, or
23 replacement shall be considered to have been performed for the
24 purpose of normal maintenance and repair.

25 (2) Notwithstanding the provisions of subdivisions (a) and (b),
26 where a structure, or any portion thereof, was reconstructed, as a
27 consequence of completing work on an underground storage tank
28 to comply with federal, state, and local regulations on these tanks,
29 timely reconstruction of the structure shall be considered to have
30 been performed for the purpose of normal maintenance and repair
31 where the structure, or portion thereof, after reconstruction is
32 substantially equivalent to the prior structure in size, utility, and
33 function.

34 (f) (1) Notwithstanding the provisions of subdivisions (a) and
35 (b), where a structure is improved pursuant to Section 50560 of
36 the Health and Safety Code, “newly constructed” and “new
37 construction” do not ~~mean~~ *include* the portion of reconstruction
38 or improvement to a soft-story building as defined by subdivision
39 (e) of Section 50560 of the Health and Safety Code. This exclusion
40 shall remain in effect during the first 10 years following the

1 reconstruction or improvement, unless the property is purchased
2 or changes ownership during that period, in which case the
3 provisions of Chapter 2 (commencing with Section 60) shall apply.

4 (2) In the 11th year following the reconstruction or improvement
5 referred to in paragraph (1), the assessor shall place on the roll the
6 current full cash value of the portion of reconstruction or
7 improvement to the structure that was excluded pursuant to this
8 subdivision.

9 (3) *For purposes of this section, “soft-story building” means a*
10 *wood frame, multiunit residential building constructed before*
11 *January 1, 1978, where the ground floor portion of the structure*
12 *contains parking or other similar open floor space that causes*
13 *soft, weak, or open-front wall lines.*

14 ~~SEC. 4.~~

15 *SEC. 2.* If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.

20 ~~SEC. 5.~~

21 *SEC. 3.* Notwithstanding Section 2229 of the Revenue and
22 Taxation Code, no appropriation is made by this act and the state
23 shall not reimburse any local agency for any property tax revenues
24 lost by it pursuant to this act.

25 ~~SEC. 6.~~

26 *SEC. 4.* The provisions of Section 3 of this act shall become
27 inoperative if Senate Constitutional Amendment 4 of the 2008–09
28 Regular Session is approved by the voters at the June 8, 2010,
29 statewide general election.